

IN THE DRAWINGS

The attached sheets of drawings include changes to Figs. 1-6. These sheets, which include Figs. 1-6, replace the original sheets including Figs. 1-6.

Attachment: 3 Replacement Sheets

### REMARKS/ARGUMENTS

Favorable reconsideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 1-109 are currently pending. Claims 10, 13, 18-38, 43-45, 48-57, 70-72, 81-87, 95-97, 100, 101, 103, 104, 107 and 108 having been withdrawn; Claims 1-48, 51-56, 61-69, 72-81, 84, 85, 86 and 91-108 having been amended; and Claim 109 having been added by the present amendment. Support for amended Claims 1-48, 51-56, 61-69, 72-81, 84, 85, 86 and 91-108 and new Claim 109 can be found, for example, in the original claims, drawings, and specification as originally filed.<sup>1</sup> No new matter has been added.

In the outstanding Office Action, the specification, drawings and Claims 46 and 47 were objected to due to informalities; Claims 1-9, 11, 12, 14-17, 39-42, 46, 47, 58-69, 73-81, 88-94, 98, 99, 102, 105 and 106 were rejected under 35 U.S.C. § 112, first paragraph; Claims 1, 15, 39, 40, 42, 46, 61 and 62 were rejected under 35 U.S.C. § 102(b) as anticipated by Alvarez (US Patent No. 6,345,099); Claims 2-9, 11, 14, 16, 17, 41, 47, 58-60 and 63 were rejected under 35 U.S.C. § 103(a) as unpatentable over Alvarez in view of an alleged Applicant's admission of prior art (hereinafter AAPA); and Claims 64-69, 73-81, 88-94, 98, 99, 102, 105 and 106 were rejected under 35 U.S.C. § 103(a) as unpatentable over AAPA in view of Alvarez.

Applicant acknowledges with appreciation the indication of allowable subject matter in Claim 12. In response, new independent Claim 109 has been presented which includes subject matter of Claim 12 in independent form.

Also, Applicant acknowledges with appreciation the courtesy of Examiner Chen in granting an interview in this case with Applicant's representatives on November 24, 2010, during which time the issues in the outstanding Office Action were discussed and

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<sup>1</sup> See, for example, page 46, lines 15-20 and page 51, lines 25-27 of the specification.

substantially summarized hereinafter and also in the interview summary sheet. A proposed amendment was discussed which the Examiner indicated would overcome the rejection under 35 U.S.C. § 112. Also, a proposed amendment to overcome the outstanding rejections was discussed which the Examiner indicated he would consider further after the filing of a formal response. The claims in this amendment incorporate the proposed amendments discussed during the interview.

In response to the objection of the drawings, Applicant has amended Figs. 1-6 to include the legend "Background Art." Thus, Applicant respectfully submits that the outstanding objection to the drawings is rendered moot by the present amendment to the drawings.

In response to the objection to the specification, Applicant has amended the specification as suggested on page 3 of the Office Action, and provided a replacement Abstract less than 150 words. Accordingly, Applicant respectfully submits that the outstanding objection to the specification is rendered moot by the present amendments to the specification.

In response to the objection to Claims 46 and 47, Applicant has amended Claim 46 as suggested on page 3 of the outstanding Office Action. Accordingly, Applicant respectfully submits that the outstanding objection to Claims 46 and 47 is rendered moot by the present amendment to Claim 46.

In response to the rejection under 35 U.S.C. § 112, first paragraph, Applicant has amended independent Claims 1, 39, 40, 46, 61, 62, 64, 73, 74, 76, 78, 79, 91, 92, 94, 98, 99, 102, 105 and 106 to recite that generating a signal-deteriorating factor includes phase-shifting data, as discussed during the interview.<sup>2</sup> Accordingly, Applicant respectfully submits the

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<sup>2</sup> Applicant notes that, in a non-limiting embodiment, the present amendments are supported by Figure 7 and the detailed view of the encoding section 1135 shown in Figure 9. Thus, the claims, as amended, remain directed to the elected species illustrated in Figures 7 and 27.

rejection under 35 U.S.C. § 112, first paragraph is rendered moot by the amendment to independent Claims 1, 39, 40, 46, 61, 62, 64, 73, 74, 76, 78, 79, 91, 92, 94, 98, 99, 102, 105 and 106.

In response to the rejections under 35 U.S.C. §§ 102 and 103, Applicant respectfully submits that independent Claims 1, 39, 40, 46, 61, 62, 64, 73, 74, 76, 78, 79, 91, 92, 94, 98, 99, 102, 105 and 106 recite novel features clearly not taught or rendered obvious by Alvarez and AAPA.

Independent Claim 1 is directed to an apparatus for encoding data including, *inter alia*:

...a signal-deteriorating factor generation section configured to generate a signal-deteriorating factor in the received data based on the received data and ***including a phase-shifting section configured to shift a phase of the received data***; and

a data-encoding section configured to obtain encoded data by performing encoding processing on the data in which the signal-deteriorating factor is generated so that signal deterioration may be promoted in accordance with the signal-deteriorating factor, the data-encoding section ***including an encoding section configured to encode, by use of sub-sampling, the data whose phase is shifted by the phase-shifting section***.

Independent Claims 39, 40, 46, 61, 62, 64, 73, 74, 76, 78, 79, 91, 92, 94, 98, 99, 102, 105 and 106, although different in scope and statutory class, recite features similar to those of independent Claim 1. Thus, the arguments presented below with respect to independent Claim 1 are also applicable to independent Claims 39, 40, 46, 61, 62, 64, 73, 74, 76, 78, 79, 91, 92, 94, 98, 99, 102, 105 and 106.

Regarding independent Claim 1, page 4 of the Office Action asserts that Alvarez discloses all of the features of Claim 1.

Alvarez describes copy protection for a monitor port of a computer.<sup>3</sup> Alvarez describes delaying a synchronization signal so that a VGA to NTSC/PAL converter has a poor quality image or a distorted picture.<sup>4</sup> Alvarez is silent as to sub-sampling data which has been phase-shifted.

Applicant has amended independent Claim 1 to recite “an encoding section configured to encode the data whose phase is shifted by the phase-shifting section,” and “configured to perform encoding by use of sub-sampling on the data whose phase is shifted by the phase-shifting section.” As noted above, and discussed during the interview, Alvarez is silent towards sub-sampling data which has been phase-shifted.

Applicant respectfully submits that AAPA fails to cure any of the above noted deficiencies of Alvarez.

Accordingly, Applicant respectfully submits that the rejections of independent Claims 1, 39, 40, 46, 61, 62, 64, 73, 74, 76, 78, 79, 91, 92, 94, 98, 99, 102, 105 and 106 (and all similarly rejected dependent claims) under 35 U.S.C. §§ 102 and 103 are rendered moot by the present amendment to those claims.

Additionally, Applicant respectfully submits that no proper combination of AAPA and Alvarez teaches or renders obvious the subject matter of new Claim 109.

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<sup>3</sup> See Abstract of Alvarez.

<sup>4</sup> See column 7, lines 1-18 of Alvarez.

Consequently, in view of the present amendment, and in light of the above discussion, the pending claims as presented herewith are believed to be in condition for formal allowance, and an early and favorable action to that effect is respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, L.L.P.



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Bradley D. Lytle  
Attorney of Record  
Registration No. 40,073

Customer Number  
**22850**

Tel: (703) 413-3000  
Fax: (703) 413 -2220  
(OSMMN 08/09)

Derek P. Benke  
Registration No. 56,944